

REMARKS

In response to the Office Action mailed August 5, 2004, Applicant amends his application and requests reconsideration. No claims are added or cancelled so that claims 1-10 remain pending.

In this Amendment, claim 2 is rewritten in independent form. Claims 3-10 depend directly or indirectly from amended claim 2. Those claims 2-10 were acknowledged to be allowable so that those claims should be immediately allowed.

Claim 1 was rejected as anticipated by Cook (U.S. Patent 2,476,356). This rejection is respectfully traversed.

Cook describes an apparatus for breaking an egg and separating the yolk from the white. In comparing claim 1 to Cook, the Examiner compared the first support of claim 1 to the extension 15 of the base 11 of Cook and also included the handles 22 that are pivotally attached to the extension 15 and biased by a spring 21 to remain separated. According to the Official Action, this first support “inherently extends and retracts in length...such that the overall length of the separator is adjustable...”. Applicant respectfully disagrees with this characterization because the proper and fundamental meanings of the words “extendable and retractable”, the words of the claim, have not been accorded to those words.

It is clear from page 3 of the Official Action that the Examiner has used interchangeably the words “adjustable” and “extends and retracts”. It is beyond argument that when the handles 22 in Cook are brought into the position shown in Figure 4 of Cook that the extent of the egg breaker measured along the section line 2 of Figure 1 of Cook is slightly longer than the overall length of when those handles are in the position shown in Figure 1 of Cook. That fact, however, does not establish that the overall length of the Cook egg breaker is “adjustable” giving the broadest possible meaning to that term.

If claim 1 stated that the overall length of the egg yolk separator were “adjustable”, it might be argued that the optional attachment of the tray 26 could function to change, i.e., “adjust”, the length of the Cook egg breaker. Even giving weight to that interpretation, neither the tray, considered as a support, nor the remainder of the egg breaker could be considered to be “extendable and retractable in length”. Extend means “to stretch or spread out to fullest length” and retract means “to draw back or in: *a plane retracting its landing gear*”. These definitions are taken from the American Heritage Dictionary of 1982. Nothing in Cook provides for stretching outward some support or drawing back that support to adjust the overall length of the separator. Further, a review

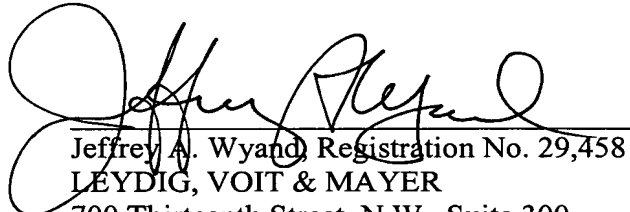
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of all of the figures of the many patents cited in the Office Action does not reveal that any of them illustrate an egg separator or other appliance that has an extendable and retractable feature, much less as a support.

The rejection is for anticipation meaning that for the rejection to be proper, Cook must disclose every element of the claimed invention. Cook simply fails that stringent test because no part of the egg breaker disclosed by Cook (or the other references) extends or retracts in length. Therefore, claim 1 has been maintained without change and reconsideration, based upon the foregoing comparison between claim 1 and Cook, is respectfully requested. If the rejection is maintained, the Examiner is requested to explain which parts of Cook extend and retract considering the fundamental meanings of those terms, which are distinct from "adjust".

Prompt and favorable action, including allowance of all of claims 1-10, is respectfully requested.

Respectfully submitted,



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